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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/771,474 | 02/04/2004 | Jin-Soo Park | 678-558 CON (P9609 CON) | 2838 |

28249 7590 03/09/2007

DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE, NY 11553

| EXAMINER | |
|---|---|
| SAFAIPOUR, BOBBAK | |
| ART UNIT | PAPER NUMBER |
| 2618 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|---|---|---|
| 3 MONTHS | 03/09/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/771,474 | PARK ET AL. | |
| | Examiner | Art Unit | |
| | Bobbak Safaipour | 2618 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *04 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/12/2006 and 7/19/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Priority*

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Information Disclosure Statement*

The information disclosure statement submitted on 1/12/2006 and 7/19/2004 have been considered by the Examiner and made of record in the application file.

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re*

*Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 1-22** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 1-26 of U.S. Patent No. 6,810,264 B1.** Although the conflicting claims are not identical, they are not patentably distinct from each other due to the following reasons:

Claim 1 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 2 of the present application is taught by claim 2 of US 6,810,264.

Claim 3 of the present application is taught by claim 5 of US 6,810,264.

Claim 4 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 and 4 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 5 of the present application is taught by claim 3 of US 6,810,264.

Claim 6 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 7 of the present application is taught by claim 7 of US 6,810,264.

Claim 8 of the present application is taught by claim 10 of US 6,810,264.

Claim 9 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8 and 9 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 10 of the present application is taught by claim 8 of US 6,810,264.

Claim 11 of the present application is taught by claim 11 of US 6,810,264.

Claim 12 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 13 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 14 of the present application is taught by claim 16 of US 6,810,264.

Claim 15 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13 and 14 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 16 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 17 of the present application is taught by claim 17 of US 6,810,264.

Claim 18 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 18 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 19 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 20 of the present application is taught by claim 22 of US 6,810,264.

Claim 21 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19 and 20 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

Claim 22 of the present application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 19 of US 6,810,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the more broadly claimed structural elements of the present invention are taught in 6,810,264.

*Conclusion*

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Bobbak Safaipour*
B.S./bs

February 27, 2007

EDAN ORGAD
PRIMARY PATENT EXAMINER
3/3/07